

**ANDERSON TOWNSHIP BOARD OF ZONING APPEALS
FEBRUARY 22, 2022**

The Anderson Township Board of Zoning Appeals postponed its regular monthly meeting due to inclement weather. The Anderson Township Zoning Appeals held a special meeting, duly called, on February 22, 2022, at 5:30 p.m. at the Anderson Center. Present were the following members:

Paul Sheckels, John Halpin, Steve Haber, Paul Sian, and Scott Lawrence

Also, present when the meeting was called to order, PJ Ginty, Planner I, Brad Bowers, Secretary, Riley McLaren, Township Co-op, and Gary Powell, Township Special Counsel. A list of citizens in attendance is attached.

Mr. Sheckels called the meeting to order, welcomed attendees, and called for swearing in. Persons testifying were asked to stand, raise their right hands, and swear or affirm to the following oath as read by Mr. Sian: Do you swear or affirm, to tell the truth, the whole truth and nothing but the truth, so help you God?

Persons testifying replied I do.

Approval of Agenda

The Agenda for February 22, 2022 was approved by unanimous consent with no objections from the Board.

Approval of Minutes

The Minutes for January 6, 2021 were approved by unanimous consent with no objections from the Board.

Consideration of Case 1-2022 BZA

Mr. Ginty stated that the public hearing is for Case 1-2022 BZA, a conditional request. The request was filed by Jason Reser of the Cincinnati Off Road Alliance (CORA), on behalf of Forest Hills Board of Education, property owner of 1500 Nagel Road and described in Book 500, Page 133, Parcel 162, zoned "B" Residence.

Mr. Ginty stated the site is approximately 36.9 acres with approximately 564' of frontage on Nagel Road.

Mr. Ginty stated the properties to the north, west and south are zoned "B" residence, and the property to the east is zoned "B-2" Residence.

Mr. Ginty stated, the applicant is requesting a conditional use to allow a bicycle trail and skills area for Nagel Middle School, located in a “B” Residence district. Per article 5.4, J, 1, the bicycle trail and skills area are accessory to an existing conditional use.

Mr. Ginty stated the history of the property: Nagel Middle School and campus were constructed in 1998. In 1999, a 5’ x 8’ freestanding sign was constructed at the driveway entrance from Nagel Road; the existing 5’ x 8’ sign is the subject of Case 2-2022 BZA. In 2003, a zoning certificate was issued for new bleacher seating. In 2011, a 10’ x 12’ storage shed was constructed on the property. In 2015, a zoning certificate was issued for a 12’ x 6.5’ canopy addition and for interior renovations. In 2015, the BZA approved Case 23-2015 BZA to allow for a modification of the parking area. In 2016, a zoning certificate was issued for a 10’ x 18’ shed.

Mr. Ginty stated to authorize by the grant of a special zoning certificate after public hearing, the Board of Zoning Appeals shall make a finding that the proposed conditional use is appropriate in the location proposed. The finding shall be based upon the general considerations set forth in Article 2.12, D, 8 and as well as the designated specific criteria for specific uses contained in Article 5.4, I, 10.

Mr. Ginty stated the findings for the Specific Criteria pertaining to “Schools” in Article 5.4, I, 10:

Mr. Ginty stated (h) The vehicular use area shall be located and designed so as to minimize impact on the neighborhood. – **In compliance, no changes to the existing parking area are proposed.**

Mr. Ginty stated (l) Measures shall be taken to minimize the impact of potential nuisances such as noise, odor, vibration, and dust on adjacent properties. – **In Compliance, the proposed perimeter trail path utilizes existing paths on the property. In addition, the perimeter trail will not be open after dusk. The bicycle skills area will be located approximately 180’ from the property line.**

Mr. Ginty stated (o) Landscaping shall be installed in accordance with one of the following buffers: (i) Boundary Buffer of 10 feet with 3.3 canopy trees and 10 shrubs per 100 l.f. – **In compliance due to existing vegetation on the site.**

Mr. Ginty stated (p) Signage shall be regulated as follows: (iii) Subject to sign standards in Article 5.5, F, 4 – **In compliance, the applicant is not altering the existing freestanding entrance sign. There will be small wayfinding and rules signs throughout the property to assist users.**

Mr. Ginty stated (s) All exterior lighting shall be directed away from adjacent residential properties. – **In compliance, the applicant indicated that no additional lighting will be located on the perimeter trail and that proposed lighting for the skills area will be directed away from adjacent residences. However, a photometric plan was not submitted.**

Mr. Ginty stated the findings for Article 2.12, D, 8, a:

Mr. Ginty stated Spirit and Intent: The proposed use and development will comply with the spirit and intention of the Zoning Resolution and with District purposes by meeting the conditional use standards.

Mr. Ginty stated No Adverse Effect: The proposed bicycle trail and skills area will not have an adverse effect upon adjacent property, or the public health, safety, and general welfare. The proposed skills area will be located in the center of the property 180' from the property line, while the proposed bicycle trail will be located within existing mature trees with the majority of the trail at least 50' from the property line.

Mr. Ginty stated Protection of Public Services: The proposed bicycle trail and skills area will respect natural, scenic, and historic features of significant public interest. The applicant has indicated that no trees will be removed from the property and that design standards will be used to minimize erosion on the site.

Mr. Ginty stated Consistent with Adopted Township Plans: The conditional use is in accordance with the Township's Comprehensive Plan and Zoning Resolution:

The project is consistent with the following goals of the "Transportation" chapter in the 2016 Comprehensive Plan, which states:

"Anderson Township will be a community with a model sidewalk and bike trail system connecting residents to businesses, schools, recreation, entertainment and other public uses."

The project is consistent with the following goals of the "Quality of Life" chapter in the 2016 Comprehensive Plan, which states:

"Residents will maintain a high quality of life that includes quality schools, entertainment, and cultural activities, health care, religious offerings, and a diverse parks, open space, and recreation system."

Mr. Ginty stated he'd be happy to answer any questions.

Mr. John Eckert, of Forest Hills School District, 8544 Sunmont Drive, stated he's the Director of Business Operations for the School District. He stated he's here in support of the team who put the application together and the project will be great for the students at Nagel Middle School.

Mr. Jason Reser, of Cincinnati Off Road Alliance (CORA), 1011 Rose Circle Park Hills, KY, presented an updated site plan that was prepared by CORA. He stated they decreased the scope of the perimeter trail based on feedback during an open house. He stated CORA is a 501(c)(3) devoted to creating and maintaining natural surface trails in the area. He stated they have over 110 miles of trails that they maintain. He stated biking has many benefits, as Ohio's first successful Riding for Focus Program through Specialized is at Nagel Middle School started by Mr. Brian Weaver. He stated there have been many studies on outdoor exercise and the benefits that come with mountain biking. He stated mountain biking is fun and this is a way to make kids more active. He stated there are also economic benefits to this type of project. He stated the

National Interscholastic Cycling Association (NICA) is an interscholastic program and mountain biking is included. He described the site plan and the project. He stated the updated site plan decreases the trail on the north part of the property, as they'll use existing gravel trails. He stated the skills course is in the ravine area on the property and described some of the features included. He stated they will not be adding vegetation, but the trail is screened from residences by existing vegetation.

Mr. Haber asked about the legend on the map.

Mr. Reser replied and described the legend and site plan. He described the difference between what's existing, and the types of trails that will be constructed.

Mr. Haber asked if the green line is existing.

Mr. Reser replied yes and describe some of the trail connections that would be created.

Mr. Brian Weaver, 2422 Turnberry Dr, stated he is the physical education teacher at Nagel Middle School and an avid cyclist. He described a grant they got for the Riding for Focus Program through Specialized. He stated that various types of exercise can be a remedy for ADHD without medication. He explained the research behind the program. He stated he's expanded the Riding for Focus program into the school's PE program. He stated he is concerned about rider safety and explained the Specialized curriculum that he attended classes for and how the program is run at Nagel Middle School. He stated he's had success using the school grounds but does not feel it's currently safe which is why they're working with CORA to improve the trails.

Mr. Maxwell Casteel, 7886 Woodstone Drive, stated he is in eight grade at Nagel Middle School and his PE teacher, Mr. Weaver, got him involved in NICA. He stated there are NICA teams in the area that ride CORA's trails. He stated the trail would be a great addition to Nagel because it will allow students to ride in a safe environment. He stated this could be an opportunity for students to explore new hobbies.

Uriah Tayler, 6836 Shiloh Road, Goshen, OH, stated he loves mountain biking and he enjoyed being part of NICA this past year. He stated he likes learning and developing his skills. He stated mountain biking helps students get healthier and explore the environment at the same time. He stated this would help students learn about bike safety and get away from video games. He stated he believes all kids should have the opportunity to ride.

Ms. Anita Eshleman, 7814 Eglington Ct., stated she is the Principal at Nagel Middle School for four (4) years and her child is currently a student at the school. She stated she worked closely with Mr. Weaver which started out as an intervention to ADHD. She stated the program has seen a lot of interest and they've been lucky enough to extend the use of the bicycles they have with grant funding. She stated as a principal, getting students out in the fresh air and physically active is important. She stated students are learning safety and social skills. She stated she hopes to bring more of the community to the bike trail.

Mr. Jason Taylor, 6836 Shiloh Road, Goshen, OH, stated he is a coach for NICA mountain bike league and started coaching to help students get on bikes. He stated it is a great opportunity and the students learn a lot of skills. He stated they go to different parks in the area to have practice on different trails. He explained the NICA program and stated this would be a great opportunity to bring riders to Anderson Township.

Mr. Halpin asked what's involved with the NICA competitions.

Mr. [Jason] Taylor stated last year there were four (4) races all over the state and he explained the races. He stated there are different grade levels and skill levels, and riders are timed during competition. He stated the east side (of Cincinnati) team was the number one (1) NICA team in Ohio and they have good coaches who teach good technique.

Mr. Halpin asked about the width of the tracks and how they race with them being so narrow.

Mr. [Jason] Taylor replied and explained they teach students how to pass other riders. He stated he used to coach football but coaching for NICA is a lot different because there's so much comradery amongst the teams. He stated he and his son have ridden all the CORA trails. He stated they've watched kids master skills and it's been very beneficial. He stated the closest park to them is 30 minutes away, whereas this is an opportunity for students, and the community, to ride on a trail near them.

Mr. Halpin asked if the length of the track is comparable to the trails that they race on.

Mr. Reser replied and stated it's not a raceable track. He described what's required for raceable tracks, including a 4-mile track and hundreds of parking spots.

Mr. [Jason] Taylor described other tracks they race on and stated Nagel is still a good opportunity for practice and learning basic skills.

Mr. Lawrence asked if Mr. Taylor represents the school or different sectors of the state.

Mr. Taylor replied NICA has composite teams that start at the state level. He stated they have riders all over Cincinnati. He stated once an area has enough riders, they can form a team.

Mr. Josh Owens, 1659 Rockhurst Ln, stated he is supportive of the project. He stated he runs and rides his bike around the school. He stated he's seen kids ride on the property and it does not seem like a safe space to bike. He stated as a community member who's a bit older and does not know how to mountain bike, the project will provide an area to learn. He stated if you want to get into mountain biking, currently you have to go to East Fork which is more technical.

Mr. Eric Bliss, 7606 Overlook Hills, stated he's in support of the project. He stated he's a physician and a chiropractor. He stated he's always trying to promote health and he has kids in the school district. He stated mountain biking is such a positive, life changing thing for people. He stated that mountain biking can have mental health benefits. He stated his son has ADHD

and biking for him is a great activity. He stated it would be nice if there were a bike park that's safe.

Mr. Robert Dornbusch, 8056 Sacred Heart Ln, stated his property abuts Nagel Middle School. He stated over the past few years, there have been unrelenting zoning changes, and this is another. He stated noise and the addition of a transient population are the reasons he is not supportive. He stated that the proposal says the project would be harmonious, and bicycles have low noise. He stated that this would increase the transients looking into his property, the potential for litter and crime. He stated that Juilfs Park is nearby. He stated students can learn how to ride a bike in the trails without the level of redundancy that this project would incur. He stated that there was a change as the last minute, and he stated that there could be another phase of implementation. He stated there are already trails in the community and asked the board to take the surrounding property owners into consideration.

Mr. Haber asked Mr. Ginty to go to the site plan and asked where Mr. Dornbusch lives.

Mr. Dornbusch showed where he lives on the screen. He stated that the applicant said no existing vegetation would be touched and it wouldn't add any noise, but he believes he will be able to hear.

Mr. Halpin asked if he can hear when they score a touchdown.

Mr. Dornbusch replied that's further, and he does not like transient populations who are not from Anderson Township using the trail.

Mr. Halpin asked about the plans being revised and asked if that was an accommodation.

Mr. Dornbusch replied he did not know, but once installed he thinks there will be future phases.

Mr. Aaron Habig, 6011 Orchard Dr, stated he's not necessarily in opposition to the project, as he is a mountain biker. He stated his concern is where the skills area is proposed, which is at the headwaters of Clough Creek. He stated based on the proposed plans, there will be at least five (5) crossings of the creek. He stated the concern is how will the creek be protected and will the crossings fall within Hamilton County's stream setback regulations.

Mr. Reser stated, with regards to the creek crossing, the lines on the map meant to stay on one (1) side of the stream and they're only going to use one (1) crossing, which is existing. He stated not all five (5) trails would cross the creek.

Mr. Haber asked about the site plan and what trails exist now.

Mr. Reser replied and explained the site plan further to clarified Mr. Haber's interpretation of the plan.

Mr. Haber asked if all the paths shown on the plan are being used for the school's curriculum.

Mr. Reser replied yes, all the paths would be open. He stated he didn't know if the existing track would be used.

Mr. Weaver stated they start on the track so that students can warm up.

Mr. Haber stated it was mentioned that the north and east portion of the plan would have some modifications.

Mr. Reser stated yes gravel would be added there so the trail could be used in all weather conditions.

Mr. Haber asked about the bike skills area and asked if that area is being used now.

Mr. Reser replied yes. He stated there are invasive plant species that they may remove. He stated this area is somewhat hidden because it's lower.

Mr. Lawrence asked about the green line at the bottom, as it is worn down.

Mr. Reser replied and explained the improvements.

Mr. Eckert described the trail shown in green and provided some history. He described who maintains the existing trails and stated some of the trails will be improved.

Mr. Haber asked about vegetation and honey suckle being removed. He asked if there would be any further landscaping removal.

Mr. Reser stated during the open house, the community mentioned removal of honeysuckle themselves. He stated that some vegetation would be removed by the baseball field.

The public hearing was closed at 6:30 p.m.

Deliberation of Case 1-2022 BZA

The board discussed the conditional use request for a bicycle trail and skills area for Nagel Middle School, per Article 5.4, J, 1 of the Anderson Township Zoning Resolution.

Consideration of Case 2-2022 BZA

Mr. McLaren stated that the public hearing is for Case 2-2021 BZA, a variance request. The request was filed by Heather Mullin, on behalf of Forest Hills School District, property owner of 1500 Nagel Road and described in Book 500, Page 133, Parcel 162, and zoned "B" Residence.

Mr. McLaren stated the applicant is requesting a variance from Article 5.5, G, 3, e of the Anderson Township Zoning Resolution, to allow a freestanding sign to have a variable message

board that exceeds 50% of the permitted area of the sign, and a variance from Article 5.5, C, 3, c, iii of the Anderson Township Zoning Resolution to allow the nonconforming sign to maintain its current size and location, as the nonconforming sign is proposed to be structurally altered to an extent greater than fifty (50%) percent of the estimated replacement value. The sign currently has a nonconforming setback of approximately 4' from the curb where a minimum of a 10' is required per Article 5.5, G, 1, b. Further, the size of the sign is nonconforming as well, as the total square footage of the sign is 74 SF (including the support structures) where 40 SF is permitted per Article 5.5, F, 4.

Mr. McLaren stated the site is approximately 36.9 acres with approximately 564' of frontage on Nagel Road.

Mr. McLaren stated the properties to the north, west and south are zoned "B" residence, and the property to the east is zoned "B-2" Residence.

Mr. McLaren stated the history of the site: In 1991, there was a partial sign replacement for an Anderson Park District sign. Nagel Middle School and campus were constructed in 1998.

Mr. McLaren stated in 1999, the 5' x 8' freestanding sign in question was constructed at the driveway entrance from Nagel Road. The sign was approved in 1998 as a conforming sign, however in 2001 Nagel Road was widened, which caused the sign to become nonconforming as it's now located 4' from the roadway where 10' is required per Article 5.5, F, 4 of the Zoning Resolution. Without the stone columns included in the square footage calculation, the sign in question is 40 SF which was compliant at the time. However, in the early 2000's our signage regulations were updated to encourage the use of monument style freestanding signs. Article 5.3, G, 1, h iii states that signs which exceed 6' in height shall include the support structure in the calculation of total square footage. With the stone columns included the sign in question is 74 SF where only 40 SF is permitted, per Article 5.5, F, 4.

Mr. McLaren stated in 2003, a zoning certificate was issued for new bleacher seating and in 2011 a zoning certificate was issued a 10' x 12' storage shed on the property. In 2015, a zoning certificate was issued for a 12' x 6.5' canopy addition and for interior renovations. In 2015, the BZA approved Case 23-2015 BZA to allow for a modification of the parking area. In 2016, a zoning certificate was issued for a 10' x 18' shed.

Mr. McLaren stated the findings:

Mr. McLaren stated staff finds that the variance may be substantial. The existing sign is 74SF (including support pillars) which makes it nonconforming, although the intent of Article 5.5, G, 1, h, iii is to encourage monument style signs and staff feels the sign is consistent with that intent. The applicant has requested that 24SF of the sign face be variable message board. This exceeds 50% of the face of the sign, however it will be less than 50% of the overall sign including the support structures. While the sign is located outside the Site Vision Triangle, as defined in Article 5.5, C, 5 and Illustration 5.15 of the Zoning Resolution, it could be difficult for motorists turning right out of the school campus to see around it. Lastly, while the sign is setback approximately 4' from the curb of the intersection of Nagel Road and the school driveway, it's

approximately 20' from the closest traveling lane on Nagel Road and technically sits outside of the sight vision triangle.

Mr. McLaren stated the essential character of the neighborhood would not be substantially altered, and adjoining properties would not suffer a substantial detriment as a result of the variance. The closest residence to the sign to the north is approximately 140' away and the house diagonally across the street from the sign is approximately 228' away. Additionally, it should be noted that the support structure of the sign will not be changed, only the sign face.

Mr. McLaren stated the property owner's predicament can be feasibly obviated through some method other than a variance. The applicant could reduce the size of the variable message board to 20 SF to be in compliance with Article 5.5, G, 3, e of the Zoning Resolution. The sign is currently a non-conforming sign due to the 2001 widening of Nagel Road, which added a turn lane, and due to text amendments related to signage in the Township's Zoning Resolution. Additionally, the applicant could relocate the sign to be at least 10' from the curb, however this would require extensive regrading due to a grade change to the southeast of the sign as a result of Clough Creek.

Mr. McLaren stated the variance will not adversely affect the delivery of governmental services.

Mr. McLaren stated the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. The sign has nonconforming aspects, but staff feels it is a monument style sign that's consistent with the intent of the zoning resolution. The sign is approximately 20' from the closest travel lane on Nagel Road and is located outside of the vision clearance triangle. Further, extensive regrading would be required to relocate the sign to be more than 10' from the curb due to the grade change to the southeast of the sign.

Mr. McLaren stated he'd be happy to answer any questions.

Mr. Sian asked about the variable message sign at the park across the street.

Mr. McLaren replied, the sign across the street is a conforming sign.

Mr. John Eckert, of Forest Hills School District, 8544 Sunmont Drive, stated this is an upgrade to the existing sign for additional community engagement. He stated they wanted to keep the existing pillars but they're not making the sign any bigger.

Mr. Haber asked if the sign has electricity.

Mr. Eckert replied yes.

Mr. Sheckels asked if the lights are on a timer.

Mr. Eckert replied yes, as it's already lit.

Mr. Haber asked if it would be on 24/7.

Mr. Eckert replied he did not know, but he believes that most of the school district's signs go out around 10pm.

Mr. Sheckels asked if there had been any complaints about the school district's signs.

Mr. Ginty replied the Board approved a sign for Ayer Elementary School a few years ago, and to his knowledge the Township has not received any complaints about that sign.

Mr. Haber asked if Mr. Ginty knew the hours the sign is lit.

Mr. Ginty replied no, not of the top of his head.

Ms. Amy Richardson, 1018 Edinborough Ct, stated she lives near the variable message sign at Ayer Elementary School, and it's on all the time, but it is not obnoxious.

Mr. Eckert stated they had not received any complaints about any of their signs. He stated Nagel Middle School and Maddux Elementary are the only Forest Hills Schools without variable message signs.

Mr. Sian asked if the sign at Ayer Elementary is a monochrome sign or color.

Ms. Richardson replied color.

The public hearing was closed at 6:52 pm.

Deliberation of Case 2-2022 BZA

The board discussed the variance request from Article 5.5, G, 3, e of the Anderson Township Zoning Resolution, to allow a freestanding sign to have a variable message board that exceeds 50% of the permitted area of the sign, and a variance from Article 5.5, C, 3, c, iii of the Anderson Township Zoning Resolution to allow the nonconforming sign to maintain its current size and location, as the nonconforming sign is proposed to be structurally altered to an extent greater than fifty (50%) percent of the estimated replacement value.

Consideration of Case 3-2022 BZA and Case 4-2022 BZA

Mr. Sheckels asked if the appellant is in attendance for Case 3-2022 BZA or Case 4-2022 BZA.

Mr. Ginty replied, no.

Mr. Sheckels asked if anybody was here to testify in support or in opposition of these two (2) cases.

Mr. Pat Thompson, 321 Asbury Road, replied, yes.

Mr. Haber stated, if the appellant is not here to present these two (2) cases, the Board should continue the cases until next month.

Mr. Ginty stated he would defer to Anderson Township Special Counsel, Mr. Gary Powell.

Mr. Powell stated this is a request for a variance and the appellant bears the burden of showing their entitled to the variance request, so if they're not here the Board should not proceed.

Mr. Sheckels asked if the Board should continue the cases until next month.

Mr. Ginty replied, the Board can continue the cases, but they could also take public testimony from those in support or in opposition.

Mr. Powell stated that's correct.

Mr. Pat Thomson, 321 Asbury Road, stated he lives near the stop sign and a majority of drivers don't stop at the stop sign. He stated his property is zoned "AA" Residence. He referred to the findings in the staff report and stated and the signs in question do not add aesthetic value. He stated the signs have been installed since 2007 and they should only be up for forty-eight (48) days. He stated the signs are very close to the road and they are not aesthetically conducive to the neighborhood. He stated they try to keep the neighborhood as low-key as possible, and these are aggressive signs.

Mr. Halpin asked if the signs were installed in 2017.

Mr. Thompson replied, the staff report states they were installed in 2007.

Mr. Bowers stated, for clarification, the staff report states they were installed in 2007 based on the application that was submitted.

The public Hearing (for Case 3-2022 BZA and Case 4-2022 BZA) was closed at 7:03 pm.

Decision and Journalization of Case 1-2022 BZA

Mr. Haber moved, and **Mr. Sian** seconded to approve Case 1-2022 BZA with three (3) conditions.

Vote: 5 Yeas

Decision and Journalization of Case 2-2022 BZA

Mr. Haber moved, and Mr. Sian seconded to approve Case 2-2022 BZA with two (2) conditions.

Vote: 5 Yeas

Decision and Journalization of Case 3-2022 BZA

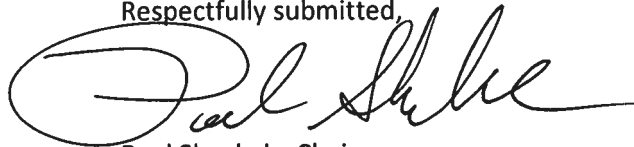
Mr. Sian moved, and Mr. Haber seconded to continue Case 3-2022 BZA and Case 4-2022 BZA until the next BZA meeting.

Vote: 5 Yeas

The next meeting is scheduled for Thursday, March 3, 2022, at 5:30 p.m. at the Anderson Center.

The meeting was adjourned at 7:15 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul Sheckels", written over a large, loopy initial "P".

Paul Sheckels, Chair

TUESDAY, FEBRUARY 22, 2022 AT 5:30 P.M.
ANDERSON CENTER, 7850 FIVE MILE ROAD

PLEASE PRINT - THANK YOU

ADDRESS:

[illegible]